

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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Applicant's or agent's file reference P26521PC00/WHA	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/NL 03/00947	International filing date (day/month/year) 30.12.2003	Priority date (day/month/year) 31.12.2002
International Patent Classification (IPC) or both national classification and IPC A22C21/00		
Applicant STORK PMT B.V. ET AL.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 16.04.2004	Date of completion of this report 23.09.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Herijgers, J Telephone No. +31 70 340-2226 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/NL 03/00947**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-66 as originally filed

Claims, Numbers

1-71 as originally filed

Drawings, Sheets

1/35-35/35 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
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International application No. **PCT/NL 03/00947**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-71
	No: Claims	
Inventive step (IS)	Yes: Claims	1-71
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-71
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1: US-A-5397263

D2: US-A-5711410

1. The document D1 is regarded as being the closest prior art to the subject-matter of method claim 1 and device claim 38, and shows a slaughter line for ratites wherein the ratites are fed one by one from holding pens to a conveying system via confinement sectors of a turntable. This corresponds to the preamble of claims 1 and 38.

The subject-matter of claims 1 and 38 differs from this known method and device by the characterising features of these claims i.e. that there is a control device controlling the number of birds transferred per time unit from the unloading to the conveying system.

The subject-matter of claims 1 and 38 is therefore new (Article 33(2) PCT).

2. The problem to be solved by the present invention may be regarded as to obtain a uniform stream of birds from a fluctuating stream.

The solution to this problem proposed in claims 1 and 38 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

In D1 there is a manual control by a worker to feed ratites to the slaughter line.

There is however no indication that the worker would control the number of ratites per time unit in order to reduce fluctuations since the control is manually done by a worker (see col.5 lines 12-15). One could only imagine that an instruction to try to reduce fluctuations is given to the worker but this is not indicated.

The present application deals with living poultry to be slaughtered. Hence the man skilled in the art of handling living poultry would not have had an incentive to look to parcel handling systems as known from D2 where also the speed of a parcel feeding conveyor is controlled in order to obtain an uniform stream of parcels.

3. Claims 2 to 37 and 39 to 71 are dependent on claims 1 and 38 and as such also meet the requirements of the PCT with respect to novelty and inventive step.